

Don Stockley Trucking and its workers' compensation insurance carrier, the Workers Compensation Fund, (referred to jointly as "Stockley" hereafter) ask the Utah Labor Commission to review Administrative Law Judge George's amended decision, dated December 30, 2003, regarding T. C.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

On November 9, 2000, Administrative Law Judge George awarded workers' compensation benefits to Mr. C. for injuries suffered in a work-related accident on April 13, 1998. Although Judge George concluded that, at the time of his accident, Mr. C. was jointly employed by 1) Don Stockley Trucking and 2) William and Linda Donahoe, Judge George noted that Mr. C. had settled his claim against Stockley and its insurance carrier, Workers' Compensation Fund. For that reason, Judge George directed his order for payment of Mr. C.'s benefits only to the Donahoes. Furthermore, even though the Donahoes did not have workers' compensation insurance, Judge George found them solvent and able to pay Mr. C.'s benefits. Consequently, Judge George did not require the Uninsured Employers' Fund ("UEF") to assume any liability in this matter.

On June 18, 2002, Mr. C., Stockley and WCF asked Judge George to amend his order of November 9, 2000. Specifically, they asked Judge George to find the Donahoes insolvent and to order UEF to pay the Donahoes' share of Mr. C.'s workers' compensation benefits. On December 30, 2003, Judge George granted the foregoing motion in part.

On January 29, 2004, WCF filed a motion for review of Judge George's amended decision.

DISCUSSION AND CONCLUSION OF LAW

In reviewing Judge George's decision, the Commission notes that no hearing was held on the request of Mr. C., Stockley and WCF that Judge George amend his earlier decision. The underlying issues raised by that request are fact-dependent. The Commission therefore remands this matter to Judge George with instructions to develop a full evidentiary record on all issues pertinent to the foregoing request. Judge George will then issue a new decision that addresses such issues in light of the available evidence. Any party dissatisfied with Judge George's decision may then seek Commission review.

ORDER

The Commission remands this matter to Judge George for evidentiary proceedings and a new decision. It is so ordered.

Dated this 15th day of June, 2004.

R. Lee Ellertson, Commissioner